

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

ISMAEL ROBLES-ZAMORA,

Defendant/Movant.

Cause No. CR 12-16-BLG-SPW  
CV 16-93-BLG-SPW

ORDER DENYING  
§ 2255 MOTION AND DENYING  
CERTIFICATE OF APPEALABILITY

This case comes before the Court on a motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255. Defendant Robles-Zamora is a federal prisoner proceeding pro se. He seeks relief under the rule of *Johnson v. United States*, \_\_ U.S. \_\_, 135 S. Ct. 2551 (2015).

Robles-Zamora pled guilty to one count of distributing at least five grams of actual methamphetamine, a violation of 21 U.S.C. § 841(a). Because he had two prior convictions for controlled substance offenses, he qualified as a career offender under U.S.S.G. § 4B1.1, which elevated his advisory guideline range to 188 to 235 months. The Court did not, however, impose the career offender designation. Robles-Zamora was sentenced to serve 125 months in prison. *See*

Statement of Reasons (Doc. 30) at 1 ¶ III, 5.

Neither the offense to which Robles-Zamora pled guilty nor any part of his sentence depended on the interpretation of a residual clause like the one the *Johnson* Court declared unconstitutionally vague. Compare U.S.S.G. § 4B1.2(a)(2) (“or otherwise involves conduct that presents a serious potential risk of physical injury to another”) with *id.* § 4B1.2(b) (defining “controlled substance offense” by reference to specified elements). *Johnson* does not apply to Robles-Zamora’s case.


A certificate of appealability is not warranted. Robles-Zamora has not made a showing that he was deprived of a constitutional right. Because *Johnson* is not implicated here, reasonable jurists would find no basis to encourage further proceedings. 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

Accordingly, IT IS HEREBY ORDERED as follows:

1. Robles-Zamora’s motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255 (Doc. 42) is DENIED;
2. A certificate of appealability is DENIED. The Clerk of Court shall immediately process the appeal if Robles-Zamora files a Notice of Appeal;
3. The Clerk of Court shall ensure that all pending motions in this case and in CV 16-93-BLG-SPW are terminated and shall close the civil file by entering

judgment in favor of the United States and against Robles-Zamora.

DATED this 28th day of June, 2016.

A handwritten signature in black ink, reading "Susan P. Watters". The signature is written in a cursive style with a horizontal line underneath the name.

Susan P. Watters

United States District Court